

arose out of and in the course of employment; (3) whether notice and claim were timely made; and (4) whether certain defenses apply. The issue raised by respondent does not fall within one of those four listed categories. Therefore, K.S.A. 44-534a, as amended, does not empower the Appeals Board with jurisdiction to hear an appeal at this stage of the proceeding where the sole issue is whether claimant is temporarily and totally disabled.

K.S.A. 44-551(b), as amended, confers jurisdiction upon the Appeals Board to review an appeal from a preliminary hearing order entered pursuant to K.S.A. 44-534a, as amended, where it is alleged the administrative law judge exceeded his or her jurisdiction in making such order. An administrative law judge has the authority at preliminary hearing to determine whether a claimant is temporarily and totally disabled. Therefore, K.S.A. 44-551(b), as amended, does not grant the Appeals Board jurisdiction at this juncture of the proceeding to review and reweigh the evidence concerning the award of temporary total disability benefits.

The respondent may preserve the issue for final award as provided by K.S.A. 44-534a(a)(2), as amended. That statute provides in pertinent part:

“Except as provided in this section, no such preliminary findings or preliminary awards shall be appealable by any party to the proceedings, and the same shall not be binding in a full hearing on the claim, but shall be subject to a full presentation of the facts.”

WHEREFORE, it is the finding, decision, and order of the Appeals Board that it does not have jurisdiction to review at this juncture of the proceedings the preliminary hearing Order dated April 10, 1997, entered by Administrative Law Judge Nelsonna Potts Barnes and that this review should be, and hereby is, dismissed.

IT IS SO ORDERED.

Dated this ____ day of July 1997.

BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Frederick L. Haag, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director